

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13952 of Albin V. Javarone, pursuant to Paragraph 8207.11 of the Zoning Regulations, for variances from the lot occupancy requirements (Sub-sections 3303.1 and 7615.2), the lot area and width requirements (Sub-sections 3301.1 and 7615.2), the rear yard requirements (Sub-sections 3304.1 and 7615.2) and from the prohibition against permitting a principal building without a front yard (Sub-section 7615.3) for a proposed conversion of an accessory building into a dwelling using theoretical lot lines in an R-4 District at the premises 630 East Capitol Street, N.E., (Square 868, Lot 847).

HEARING DATE: April 30, 1983 and June 22, 1983
DECISION DATE: September 7, 1983

FINDINGS OF FACT:

1. At the April 20, 1983, public hearing, the Board considered and granted the request of the applicant for a continuance of the application until June 22, 1983. The applicant advised that he was seeking legal counsel.
2. The subject site is located on the north side of East Capitol Street between 6th and 7th Streets, N.E. and is known as premises 630 East Capitol Street, N.E. The site is in an R-4 District.
3. The site is generally rectangular in shape containing approximately 2,882 square feet of land area with 22.61 feet of frontage on East Capitol Street. The site is improved with a three-story brick dwelling fronting on East Capitol Street and a two-story brick carriage house located on the rear lot line. The structures extend the full width of the lot. The three-story structure was constructed in 1908 as a single-family residence and is the main building. It is presently occupied as a five unit apartment house. The carriage house is presently vacant and in disrepair. It has been previously used as a garage and storage space.
4. Abutting the site to the east is an identical property. To the west is a fifteen-foot wide public alley followed by another similar property. Abutting the site to the north is a thirty-foot wide public alley. There are several carriage houses within the square.
5. The site is in an extensive area of R-4 zoning.

6. The applicant proposes to convert the carriage house to a dwelling using theoretical lot lines. Two theoretical lots would be created. The rear lot with the existing carriage house would be 37.81 feet by 22.0 feet and the front lot with the existing three-story structure would be 90.27 by 22.61 feet.

7. The converted carriage house would contain a single dwelling unit and one on-site parking space required for that unit. Access to the carriage house would be from the thirty-foot wide public alley.

8. Wayne Zeh is employed by and represented the applicant at the public hearing. Mr. Zeh does not live on the subject premises but has cared for the subject property for several years. The applicant does not reside on the subject premises.

9. The applicant's representative testified that conversion of the carriage house to a residence was needed to provide future living quarters for either himself or the son of the owner who is attending college. The owner, Mr. Javarone, is to retire within the next five years and anticipates returning to Washington to live. Mr. Javarone would live in the main house on the first floor and basement and retain three apartments on the upper floors as rental units. The representative argued that the conversion to a residence would bring what is a vacant deteriorating structure into an active rehabilitated condition and provide security for the alley.

10. The theoretical rear lot requires a minimum lot area of 1,800 square feet. The lot would contain 840.73 square feet, necessitating a variance of 959.27 square feet or 53.29 percent.

11. The rear lot requires a minimum lot width of eighteen feet. As proposed the lot would be twenty-two feet wide. One parking space is required and one is provided.

12. A maximum lot occupancy of sixty percent, or 504.44 square feet, is permitted for the rear lot. As proposed, 510.40 square feet would be occupied, requiring a variance of 5.96 square feet or 1.13 percent.

13. Since it has no street frontage, a front yard of twenty feet is required for the rear lot. No front yard would be provided, requiring a variance of twenty feet at 100 percent.

14. The rear lot requires a minimum rear yard of twenty feet. As proposed, 14.61 feet would be provided requiring a variance of 5.39 feet or 26.95 percent.

15. The front lot in the R-4 District requires a minimum lot area of 4,000 square feet. As proposed, 2,041 square feet would be provided. A variance of 1,959 square feet or 48.97 percent is required.

16. A minimum lot width of forty feet is required for the front lot. As proposed, 22.61 feet would be provided, requiring a variance of 17.39 feet or 43.47 percent.

17. A maximum lot occupancy of forty percent or 816.4 square feet is permitted for the front lot. As proposed 1,361.54 square feet would be occupied, requiring a variance of 66.77 percent or 545.14 square feet.

18. The front lot requires a minimum rear yard of twenty feet and twenty feet is provided.

19. The site is in the Capitol Hill Historic District.

20. The Office of Planning, by report dated April 12, 1983, recommended denial of the application. The Office of Planning reported that there were no grounds for the granting of the variances by reason of exceptional narrowness, shallowness or shape of the specific property or other extraordinary or exceptional situation or condition of the property. In the opinion of the Office of Planning, the existence of the carriage house was not an extraordinary or exceptional situation which would justify granting the subject variances. There are numerous such carriage houses throughout the city. In addition, the existing density of the front structure creates a situation where reasonable use is permitted for the property as a whole. The Office of Planning was of the opinion that the applicant's rationale for the requested variances was that without them he would be unable to make a beneficial use of the carriage house because of the limiting size and configuration of the property. Yet, it appears that the carriage house could be used for parking with storage above, not unlike such carriage houses throughout the city. The Office of Planning further noted that many of the additional adverse impacts would be marginal. There would be no change in light and air or open space, and there would only be a small increase in parking impact. Yet the end result of this proposal would be to create six apartment units, a density far in excess of the three units permitted on a 2,882 square foot lot in an R-4 District. The Board concurs with the reasoning and recommendation of the Office of Planning.

21. A resident of 626 East Capitol Street, N.E. appeared at the public hearing in support of the applicant, indicating that the proposed residential use of the carriage house would provide an element of safety to the alley.

22. A petition of some twenty-five signatures in favor of the application was filed in the record. No grounds were stated.

23. The Stanton Park Neighborhood Association, by letter dated April 7, 1983, stated its opposition to the application. The Association was concerned with the resulting density if the application was granted and the potential of establishing a precedent.

24. Three residents, Vesta and Robert Crosby of 646 East Capitol Street, N.E. and Marie Hertzberg of 600 East Capitol Street, N.E. testified in opposition at the hearing. Their opposition was based on the following:

- A. The application, if granted, would set a precedent for conversion of carriage houses to apartments;
- B. Overcrowding and excessive density on the site;
- C. Problems of trash collection; and
- D. Parking congestion.

25. The opposition filed into the record a petition signed by twenty-nine residents in opposition based on: (A) The relief was sought to obtain additional revenue from the property; (B) increased density; (C) exacerbation of traffic and trash problems in the alley; (D) precedent setting; and (E) the proposal encourages transients in the neighborhood.

26. Advisory Neighborhood Commission 6A did not file a recommendation on this application.

27. The Board, as more fully discussed below in its conclusions, finds that the critical issues sustaining a denial of the application are the applicant's failure to demonstrate a practical difficulty inherent in the site and the adverse affect on neighboring property because of the increased density. The Board in addressing the other issues raised by the opposition, finds such issues as precedent setting, security and absentee owners extraneous to the subject application. The Board has uniformly held that it will determine each application on its own merits. The grant or denial of a specific application will not set a precedent. As to security, this is not a zoning problem. Security is a question of enforcement by other authorities in the D.C. Government. Lastly, the Zoning Regulations do not require that an owner reside on his property.

28. At the public meeting of July 6, 1983, a motion to deny the application failed for lack of a majority. The two Board members not present at the public hearing of June 22,

1983, read the complete file and transcript and voted at the public meeting of September 7, 1983.

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of record, the Board concludes that the applicant is seeking area variances, the granting of which requires the showing of a practical difficulty inherent in the property itself. The Board concludes that there are no practical difficulties unique to the subject property to support the variances necessary to subdivide the property into theoretical lots. The site is not exceptionally narrow or shallow. Its shape is generally rectangular and is typical of lots in the R-4 District. There are no unusual topographical conditions. The accessory structure as a two-story carriage house is not an unusual structure in the subject square or in the Capitol Hill area. The carriage house is sited on the subject lot similar to other carriage houses throughout the area. The Board concludes that the applicant's reasons for the variances, such as economic concerns and a future place for him and his family to reside, do not address the issues of zoning such as a practical difficulty inherent in the property. The reasons as stated are not a basis to grant area variances.

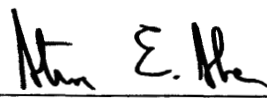
The Board further concludes that if the relief were to be granted, it would cause a substantial detriment to the public good. The proposed theoretical subdivision to permit use of the carriage as an apartment would in effect increase the density to twice what is normally permitted in the R-4 District, causing overcrowding on the site and square and adversely affecting the neighborhood.

The Board is further of the opinion that the variance relief sought is excessive and can not be granted without substantially impairing the intent and purpose of the zone plan. Accordingly, it is ORDERED that the application is hereby DENIED.

VOTE: 4-1 (Walter B. Lewis, William F. McIntosh, Douglas J. Patton and Charles R. Norris to deny; Carrie L. Thornhill opposed to motion).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER:

OCT 27 1983

BZA APPLICATION NO. 13952
PAGE 6

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO
DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN
DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL
RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING
ADJUSTMENT."

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